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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,715	12/10/2003	Avery Levy	30940-101	9741

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EXAMINER

ARYANPOUR, MITRA

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 05/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/733,715

Applicant(s)

LEVY, AVERY

Examiner

Mitra Aryanpour

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 February, 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-212 is/are pending in the application.
- 4a) Of the above claim(s) 1-32 and 62-212 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 33-61 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 33-39, 60 and 61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gordon (6,682,444) in view of Mirando et al (5,482,699).

Regarding claims 33-39, Gordon shows a ball game system, comprising: a planar playing surface (flat playing surface 102) including a resilient surface (resilient surface 104) adjacent one or more deformable elastic surfaces (deformable-elastic surface 106); a hoop (elevated goal 122) proximate an end of the playing surface; means for adjusting the elasticity of rebounds provided by the one or more deformable-elastic surfaces and means for controlling the elasticity adjusting means (see column 6, lines 14-32, and lines 66-67; and column 7, lines 1-39). Gordon does not disclose expressly the playing field having a payment receiving means. Coin operated mechanisms are conventional and commercially available for use in various types of games including amusement games. This is also taught by Mirando et al. Mirando et al shows a basketball type game having a typical coin operated mechanism (82). Upon inserting a coin or any conventional payment means, typically a control mechanism releases balls to a player. Using a control panel (80) the player is able to operate the game. The game is given a predetermined playing time and at the end of each game the points are tallied based on player achievement and the total(s) is visually displayed. Typically sounds are generated for player amusement or

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alternatively instructional sounds are provided to aid the user. In view of Mirando et al it would have been obvious to include a coin-operated mechanism for the ball game system of Gordon so the user(s) are restricted to using the game mechanism a predetermined period of time and the end of the set time, the user is unable to use the game mechanism, unless he inserts another payment. It should be noted that the use of a coin-operated mechanism in combination with the Gordon device or any device for that matter restricts use of that particular device. In the instant case it would restrict use of the playing surface which includes the resilient playing surface.

Gordon further shows the perimeter of the playing surface can be provided with padding and the first and second playing surfaces can be any desired shape including rectangular, square, circle triangle etc. Gordon further shows the deformable elastic surfaces comprise trampolines which include a flexible fabric connected about the perimeter by a plurality of springs, wherein the elasticity adjustment means can be selected from the group comprising hydraulic or pneumatic shock absorbers (see column 9, lines 34-47). Gordon does not expressly disclose the particular structure for the hydraulic or pneumatic mechanism. However, one skilled in the art would understand that the hydraulic system would include a plurality of pistons and pneumatic system would include pressurized chambers in order to be able to adequately operate the game mechanism. Gordon further shows the ball game system can have one or more basketball type goals (122). As it is well known basketball hoops are attached to backboards, the combination commonly being adjustable to accommodate various needs of players.

With regards to the newly added limitation the hoop assembly also being controlled by the payment means. One of ordinary skill in the art would have readily recognized that the various elements of the game assembly need to be provided with a means to restrict use without

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a payment, and it would have been obvious to do so here.

3. Claims 40-59 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art of record as applied to claim 33 above, and further in view of Simpson et al (5,776,018).

Regarding claims 40-45, Simpson et al further shows a ball feeder for delivering a ball to a point about the planar playing surface, the delivery controlled by the control means in response to the payment received, a ball collector for conveying balls passing through the hoop to the ball feeder. The ball collector comprises netting (basket net 34) disposed circumferentially below the hoop and forming a channel of sufficient diameter to accommodate the ball passing through the hoop. The ball feeder allows for selection of ball speed and ball delivery trajectory. The ball feeder includes a ball counter and the payment entitles a player to a predetermined number of balls delivered from the ball feeder (see document in its entirety). In view of Simpson it would have been obvious to provide a ball feeder for the game system of Gordon the motivation being, so the basketballs are delivered to the players one-at-a-time in a controlled manner.

Regarding claims 46-58, Simpson et al further comprising a plurality of sensors outputting to the control means position and trajectory information related to individual players and ball, wherein the control means creates an output responsive to the movement of each player, scoring sensor number of balls passed and/or missed; an output is provided which comprises visual display of player metrics, the metrics presented in a specified time (see figure 7). Control means output represents a comparison of respective performance of one or more players (column 9, lines 18-34). Additionally, in view of Simpson it would have been obvious to include sensors with the ball feeder for the game system of Gordon so player information can be gathered and printed out or displayed for immediate analysis and use and, if desired, stored for future

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reference. Both the player and the coach can use this information to help tailor workouts to the maximum advantage.

Regarding claim 59, Gordon as modified above does not expressly disclose the use of a camera controlled by the control means for recording activity on the playing surface. The **Examiner takes Official Notice** that it is well known to use video cameras to capture in real time the image of a player when training or practicing. The purpose of the camera being so the video can be played back to the player in order to analyze player's movements. Applicant has not traversed the examiner's Official Notice. Therefore, the well known in the art statement is taken to be admitted prior art.

Response to Arguments

4. Applicant's arguments filed 03 February 2006 have been fully considered but they are not persuasive. As indicated in our phone interview on 24 April, 2006 The Gordon patent(s) meets the structural limitations of the claimed invention except for providing a means for controlling the use of the game facility i.e. coin operated. As applicant is well aware, controlling the use of a facility or equipment by means of payment for a predetermined period of time is old and well known i.e. tennis courts, batting cages, amusement park games. By inserting a form of payment the user is able to utilize the particular game or facility for a set time. Once the time is up the user is no longer able to use the facility. It appears that Applicant's invention merely differs from the Gordon patent, in that it is coin operated. Clearly the entire mechanism would be controlled by the payment means i.e. the hydraulic system or the pneumatic system which provides resiliency to the elastic surfaces, if not it would defeat the purpose of having a payment means.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mitra Aryanpour whose telephone number is 571-272-4405. The examiner can normally be reached on Monday - Friday 10:00 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Kim can be reached on 571-272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

27 April 2006



**MITRA ARYANPOUR
PRIMARY EXAMINER**